

Rye City Planning Commission Minutes

February 11, 2003

PRESENT:

Barbara Cummings, Vice-Chairman
Peter Larr
Franklin Chu
Patrick McGunagle
Martha Monserrate

ABSENT:

Michael W. Klemens, Chairman
Hugh Greechan

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
George M. Mottarella, P.E., City Engineer
Joseph Murphy, Chairman, Conservation Commission/Advisory Council (CC/AC).
James McGee, CC/AC
Jim Nash, CC/AC

Vice-Chair Cummings called the regular meeting to order in the Council Hearing Room of the City Hall and noted that a quorum was present to conduct official business. Ms. Cummings noted that Chairman Klemens could not attend the meeting due to a family medical emergency.

I. HEARINGS

1. 95 Wappanocca

Vice-Chair Cummings read the public notice.

Beth Evans (applicant's environmental consultant) provided an overview of the project noting that it involved the construction of a second floor and new rear addition to an existing residence. Ms. Evans noted that the edge of the wetland was based on the top of the Blind Brook and that the addition would result in adding approximately 220 square feet of impervious area within the 100-foot wetland buffer. To offset this impact, Ms. Evans noted that approximately 460 square feet of wetland mitigation planting would be provided.

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There were no public comments.

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Michael Klemens, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing on Wetland Permit Application #WP121.

II. ITEMS PENDING ACTION

1. 95 Wappanocca

The Planning Commission noted that based on its site walk inspection that the Blind Brook needs to be cleaned up behind property. Beth Evans (applicant's environmental consultant) stated that the applicant would remove loose debris and other inappropriate material along the edge of the brook.

On a motion made by Peter Larr, and seconded by Martha Monserrate and carried by the following vote:

AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Michael Klemens, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission conditionally approved Wetland Permit Application #WP121.

2. Discussion of Commission Document Release Policy

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1 Due to Chairman Klemens absence, the Commission agreed to defer this agenda item to
2 its next meeting on February 25, 2003.

3. 195 (formerly 205) Grace Church Street

5
6 Linda Whitehead (applicant's attorney) provided an overview of the application, noting that
7 the plan had been revised to remove the proposed house completely from the wetland.
8 Ms. Whitehead noted that house footprint was "real" and was designed by an architect.
9 She reiterated some of the proposed wetland mitigation measures, which remained
10 unchanged from the previous submission.

11
12 The Commission recognized that the proposed residence was outside the wetland, but
13 suggested that the site plan should be revised to address the inevitable future wetland
14 impacts as a result of disturbances typically associated with the rear yards of single-family
15 residences. The Commission and City Planner noted that according to the applicant's plan
16 construction disturbances would occur within the wetland and that these impacts were not
17 quantified. The Commission noted that extraordinary measures would be necessary to
18 prevent future wetland encroachment and that these measures had not been provided. The
19 Commission requested that the City Planner ask Corporation Counsel to provide guidance
20 of the types of enforceable restrictions (including those that provide penalties) to protect
21 environmentally sensitive areas.

22
23 The Commission also noted that the application would require substantial variances
24 including a front yard setback and FAR variance. The Commission requested that the plan
25 be revised to eliminate all variances. The City Planner added that the Commission,
26 consistent with prior practice, could exercise its right to provide advisory comments to the
27 Zoning Board of Appeals regarding the variances and may choose to recommend against
28 the granting of variances for the current house configuration. The Commission also
29 suggested that it would not act on an application that the Zoning Board of Appeals may not
30 approve.

31
32 Ms. Whitehead responded to the wetland disturbance issue by noting that the wetland
33 immediately to the rear of the residence is grass and that upon project completion would
34 be returned to grass. She further stated that the wetland mitigation plan includes a
35 demarcation to prevent future encroachment and that wetland mitigation plantings had
36 been provided. Ms. Whitehead suggested that the application would be further outside the
37 wetland than the residence on the adjacent property, which the Planning Commission
38 recently approved. The City Planner noted that regulated activities will occur within the
39 wetland by future owners and that they should be anticipated as part of the Commission's
40 consideration of the application. He also noted that the mitigation plan and site plan

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1 appeared inconsistent and should be rectified, particularly regarding the proximity of the
2 proposed residence to the wetland.

3
4 Regarding the need for variances, Ms. Whitehead noted that the plan had been revised to
5 eliminate wetland impacts as directed by the Commission, but that in order to achieve that
6 design consideration a front yard setback variance would be required. She noted that the
7 Commission suggested that the applicant be creative, which she felt had been achieved.
8 Ms. Whitehead noted that the need for the front yard setback variance is due to the unusual
9 front lot line configuration. She suggested that if the lot line were more parallel to the street
10 as is typical of most right-of-way configurations then a variance would likely not be
11 required. Ms. Whitehead noted that the need for the FAR variance was due to the fact that
12 the Zoning Code does not permit wetland areas to be used as part of lot area in the
13 calculation of FAR. She noted that this was due to the unique environmental condition of
14 the property and the presence of an on-site wetland. Ms. Whitehead stated that to avoid
15 both wetland disturbance and the need for variance would leave no reasonably sized
16 building envelope to construct a residence.

17
18 The City Planner noted that the Commission did not specifically request that the plan
19 violate the requirements of the Zoning Code. He further stated that if it is the applicant's
20 position that a residence cannot be built on the property without wetland disturbance and
21 variances, than a plan or other appropriate information will be necessary to substantiate
22 that opinion.

23
24 The City Engineer discussed the proposed stormwater treatment system. He suggested
25 that the proposed vortech unit be replaced with a larger catch basin/sump system.

4. Walker Subdivision

26
27
28 The Commission noted that it had been considering three alternative subdivision designs
29 for the property. The applicant's initial submission included the construction of two-lot
30 subdivision and driveway extending from Manursing Way, which would require a wetland
31 permit. The Commission noted the receipt of a memorandum from the CC/AC stating that
32 it did not support a driveway from Manursing Way through the 100-foot wetland buffer. The
33 Commission noted that if it were to consider a plan involving wetland buffer disturbance
34 that substantial mitigation would be necessary given the availability of viable alternatives to
35 avoid such disturbances. The Commission indicated that the applicant has not provided a
36 plan including such mitigation.

37
38
39 The Commission agreed that public input on the plans would be appropriate and that a
40 hearing be scheduled. The Commission agreed that the hearing should be based on the
41 three-lot subdivision plan with common driveway access from Forest Avenue on the south

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side of the property (Alternative 2). The Commission noted that it would hear comments relating to all three alternative plans at the public hearing. Ms. Whitehead requested that the public hearing be set for the Commission's March 11 meeting.

On a motion made by Peter Larr, and seconded by Patrick McGunagle and carried by the following vote:

AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Michael Klemens, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on Subdivision and LWRP Coastal Consistency Application #SUB272 for its March 11, 2003 meeting.

5. Barber (Philips Lane)

Prior to the discussion of this matter Patrick McGunagle recused himself and left the hearing room. His residence abuts the applicant's property.

Janet Giris (applicant's attorney) stated that the site plan had been revised to address the comments made at the Commission's last meeting. The City Planner noted that the draft resolution of approval had been prepared as the Commission requested but that it needed to be amended to include a condition that the applicant will be required to provide an "as-built" survey demonstrating that all improvements have been provided as shown on the approved site plan drawings.

The Commission discussed with James McGee (CC/AC member) the need for stormwater treatment of the roof runoff. The Commission noted that it considered the proposed plan acceptable and that the application had been significantly revised at the Commission's request to provide a number of water quality improvement measures.

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate

NAYS: None

RECUSED: Patrick McGunagle

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1 ABSENT: Michael Klemens, Hugh Greechan

2
3 the Planning Commission took the following action:

4
5 **ACTION:** The Planning Commission conditionally approved Wetland Permit
6 Application #WP108.

7 8 **6. Ann Lane Subdivision**

9
10 The Commission noted that there was no need for an additional public hearing since the
11 final subdivision is substantially consistent with the preliminary subdivision application
12 presented for public comment.

13
14 The Commission discussed the proposed deed restriction language for the steep slope
15 area along the rear property line. The Commission noted that the configuration of the area
16 appeared consistent with their prior comments, but that the language should be further
17 modified to require that this area be left in its "natural state". The Commission suggested
18 that the City Planner review the language and consider modifying it consistent with other
19 protected areas in recently approved subdivisions.

20
21 The Commission discussed the proposed relocation of the sewer line on the adjacent
22 synagogue property. The City Engineer noted that the sewer line should be shifted further
23 away from the applicant's property line to provide for improved access for future
24 maintenance or repairs of the system. Linda Whitehead (applicant's attorney) noted that
25 the synagogue prepared a letter to the Commission finding the proposed sewer relocation
26 acceptable. Chuck Utchig (applicant's engineer) also noted that the synagogue intends to
27 extend a sewer to Forest Avenue as part of its recently approved building improvements
28 and views the applicant's sewer relocation as temporary. The Commission requested that
29 the City Planner contact the synagogue to confirm that they are aware and understand the
30 comments of the City Engineer.

31
32 The City Planner noted recent changes in New York State SPEDS permit requirements
33 and that the City would require NYSDEC approval of the stormwater and erosion control
34 plans before construction could be initiated. Mr. Utchig noted that it was his understanding
35 that plans must be filed with NYSDEC, but that typically that agency does not issue
36 approvals. He suggested that the applicant only be required to submit evidence to the City
37 that the plans have been submitted with NYSDEC.

38
39 The City Planner requested that the tree preservation plan be amended to indicate the
40 removal of additional trees caused by the placement of the wall delineating the top of the
41 steep slope area along the rear property line.

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The Commission requested that the City Planner prepare a resolution of approval for its consideration at its next meeting.

7. Hancock

David Mooney (applicant's architect) presented overview of application noting that it involved the construction of a new dock. Mr. Mooney noted that the Commission approved the same application in 2000, but that the wetland permit expired requiring re-approval. Mr. Mooney noted that NYSDEC and ACOE approvals were secured, have not expired and remain valid.

The Commission noted that the copy of the NYSDEC approval provided in the application appeared to have expired. Mr. Mooney responded that the NYSDEC permit was granted an extension. The City Planner requested that a copy of this extension be provided to the Commission for the file.

The Commission noted inconsistencies in the application regarding the property address. Mr. Mooney noted that he would review those inconsistencies, but that the confusion may be as a result of Mr. Hancock owning the subject properties and abutting properties with different addresses.

The Commission requested that Mr. Mooney confirm the type of wood that will be used for the dock and that if it is treated wood that it not include any arsenic-based chemical additives.

Mr. Mooney noted that the dock will be large enough to accommodate 1 or 2 boats.

On a motion made by Peter Larr, and seconded by Patrick McGunagle and carried by the following vote:

AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Michael Klemens, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission scheduled public hearing on Wetland Permit Application #WP123 for its February 25, 2003 meeting.

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8. Kass

Linda Whitehead (applicant's attorney) gave overview of application noting that it involved a four-foot rear building addition, which encroaches about three to four feet into the 100-foot wetland buffer. Ms. Whitehead stated that the application also involves the expansion of the existing pervious bluestone patio in the rear yard. She noted that the application also required and secured an FAR and setback variance from the Zoning Board of Appeals. Ms. Whitehead provided an overview of the proposed mitigation noting that new plantings would be provided in the rear and side of the residence.

The Commission requested that the plan be revised to show the location of the 100-foot buffer and the calculation of the increase in impervious area over existing conditions and proposed landscape mitigation area. The Commission noted that the increase in the bluestone patio should be included in the calculation. The City Planner noted that the Commission typically uses a impervious factor for bluestone patios that he would provide the applicant.

The Commission questioned the extent of off-site improvements and mitigation and questioned whether the applicant had obtained permission from the home owners' association (HOA). It was also noted that a survey would be required to more accurately define the applicant's property. The Commission desired the off-site mitigation along the waters edge since it would have the greatest benefit in that location, but that HOA approval would be necessary for the applicant to include such area in its wetland mitigation calculation. Ms. Whitehead responded that some of the improvements have been approved by the HOA, but that the plantings along the waters edge have not. She noted that she will try to get HOA approval, but it is unlikely that she will get it in time for the Commission's next meeting.

The Commission questioned the appropriateness of the increase in the existing stone wall along the southern property line and hedgerow on the HOA property and within the wetland buffer. It was also noted that the plant material was within or near existing sewer and drainage easements. Dawn Morton (applicant's landscape designer) noted that the applicant wanted to improve the screening along the property line from the adjacent neighbors. Ms. Morton also stated that the type of plant material would not impact the easement area. The City Engineer noted that plant material within an easement is not permitted unless the applicant obtains a license agreement.

The Commission requested that the site plan be revised to include more information regarding changes in grade and the extent of fill that would be involved in expanding the

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1 terrace. Ms. Morton indicated that there is bedrock in that location so the extent of fill would
2 be modest.

3
4 the Planning Commission took the following action:

5
6 On a motion made by Peter Larr, and seconded by Martha Monserrate and carried by the
7 following vote:

8
9 AYES: Peter Larr, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick
10 McGunagle

11 NAYS: None

12 RECUSED: None

13 ABSENT: Michael Klemens, Hugh Greechan
14

15 **ACTION:** The Planning Commission scheduled public hearing on Wetland Permit
16 Application #WP124 for its February 25, 2003 meeting.
17

7. Minutes

18
19
20 The Planning Commission reviewed and approved the minutes of its January 14, 2003
21 meeting.

22
23 There being no further business the Commission unanimously adopted a motion to adjourn
24 the meeting at approximately 9:45 p.m.
25

26 Christian K. Miller, AICP
27 City Planner
28